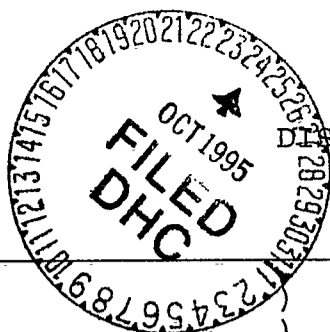


NORTH CAROLINA
WAKE COUNTY



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BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
95 BCR 5

In the Matter of
Petition for Reinstatement of:

Carl Goldfarb

)
) RECOMMENDATION OF
) HEARING COMMITTEE
)

This matter coming on to be heard and being heard on September 29, 1995 by a hearing committee composed of Paul L. Jones, Chairman, James R. Fox, and Robert Frantz. The Petitioner, Carl Goldfarb, was represented by James B. Maxwell, and Harriet P. Tharrington represented the North Carolina State Bar. Based upon the evidence presented and the arguments of counsel, the hearing committee makes the following:

FINDINGS OF FACT

1. Carl Goldfarb was admitted to the practice of law in North Carolina in 1959.
2. From September 1959 through June 1983, Goldfarb was an attorney licensed to practice law in North Carolina, with his principal office in Charlotte, North Carolina.
3. On May 19, 1983, Goldfarb pled guilty to and was adjudged guilty of two counts of embezzlement in violation of N.C.G.S. Section 14-90 in Mecklenburg County Superior Court.
4. On May 20, 1983, Goldfarb voluntarily tendered the surrender of his license to the North Carolina State Bar. At the time of the voluntary surrender, Goldfarb filed an affidavit acknowledging that on five occasions over a period of approximately two years he had misappropriated approximately \$29,000 of funds entrusted to him by clients.
5. On June 3, 1977, prior to his disbarment, Goldfarb received a public censure from the North Carolina State Bar in Disciplinary Hearing file 77 DHC 1. In that order, Goldfarb was censured for receiving funds of a client and failing to preserve the identity of those funds. A copy of the public censure is attached to this recommendation and incorporated herein.
6. Goldfarb's indictment and conviction were widely publicized in the Mecklenburg County community because Goldfarb was a prominent member of the bar and community.
7. On July 15, 1983, based upon Goldfarb's affidavit and surrender of license, an order was entered by the Council disbaring Goldfarb.
8. The underlying incidents which led to the tender of

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Goldfarb's license and his disbarment are set out in the affidavit dated May 20, 1983, the Council's Order dated July 15, 1983 and the Findings of Fact and Conclusions of Law in 77 DHC 1 dated June 3, 1977, all of which are attached to this recommendation and are incorporated herein.

9. From the earliest years of Goldfarb's career through the time he surrendered his license Goldfarb's first wife suffered psychiatric problems. Soon after the marriage, Goldfarb learned that his wife had been in psychiatric treatment since age five.

10. Over the course of the marriage, Goldfarb's wife grew more seriously ill. She was repeatedly hospitalized at Duke, Menninger's, Johns Hopkins and other treatment centers. On at least one occasion, she spent two years at the Menninger's Clinic in Topeka, Kansas.

11. Because of his wife's psychiatric problems and frequent hospitalizations, Goldfarb was primarily responsible for the care of his two children, William and Ava.

12. The bills for Goldfarb's wife's psychiatric treatment ran into hundreds of thousands of dollars. After the first few years of marriage, Goldfarb's medical insurance ceased paying for his wife's treatment.

13. In order to pay the medical bills, Goldfarb began borrowing money from friends and family.

14. The financial pressures on Goldfarb from his wife's illness contributed to Goldfarb's decision to take client funds to meet his wife's massive medical bills.

15. Goldfarb divorced his first wife in 1981. He married Sharon House Goldfarb in 1983.

16. After the divorce, his first wife successfully sued her primary psychiatrist at Duke University for malpractice in part for improper administration of drugs.

17. Goldfarb petitioned for reinstatement in 1989. A full evidentiary hearing was held on January 19, 1990. At the conclusion of that hearing, a majority of the panel recommended reinstatement in an order signed the 30th day of March 1990. One member dissented. When the matter came before the full council of the State Bar, the council denied Goldfarb's petition. A copy of the Report of Hearing Committee in the 1989 reinstatement case is attached.

18. Goldfarb has complied with all orders and judgments of the state court relating to the matters resulting in his disbarment, and he has fully complied with all conditions of the sentence imposed by the Superior Court of Mecklenburg County.

19. Goldfarb's citizenship has been restored.

20. Goldfarb has made restitution to all clients whose funds were embezzled.

21. Goldfarb has taken the following continuing legal education courses on the dates indicated below:

- | | |
|--------------------|--|
| a. April 29, 1989 | Basics of Bankruptcy |
| b. June 2, 1989 | Workers' Compensation |
| c. Dec. 3, 1992 | N.C. Tort Law of 1992 |
| d. Dec. 11, 1992 | N.C. Workers' Compensation Law |
| e. Feb. 19, 1993 | Wrecks, Liens and Videotape |
| f. May 7, 1993 | Workers' Compensation |
| g. August 27, 1993 | The 1993 Professional
Responsibility Seminar |
| h. March 25, 1994 | N.C. Evaluation and Settlement
Personal Injury Claims |
| i. Feb. 17, 1995 | Medical Proof of Damages and
Disability |

22. Goldfarb has at times since his disbarment worked as a paralegal/legal assistant.

23. Since his disbarment, Goldfarb has worked at times as a volunteer at the battered women's shelter of Mecklenburg County and with the Mecklenburg County Red Cross; however, upon learning of Goldfarb's conviction for embezzlement and his disbarment, the battered women's shelter told Goldfarb that it no longer needed his services.

24. There was no evidence that Goldfarb engaged in the unauthorized practice of law during the period of disbarment.

25. Goldfarb is remorseful over the circumstances that led to his surrender of license in 1983.

26. Timothy L. Harris, a Gastonia attorney and Goldfarb's current employer, hired Goldfarb to serve as a legal assistant in his office with full knowledge of Goldfarb's misconduct. Harris has found Goldfarb to be diligent and trustworthy.

27. William Goldfarb, Goldfarb's son and a Monroe attorney, testified on behalf of his father.

BASED UPON the foregoing findings, the hearing committee concludes as follows:

1. Carl Goldfarb has proven by clear, cogent and convincing evidence that he possesses the moral qualifications required for admission to the practice of law in North Carolina.

2. Goldfarb has proven by clear, cogent, and convincing evidence that he understands the current Rules of Professional Conduct.

3. Carl Goldfarb has not proven by clear, cogent and convincing evidence that if he is allowed to resume the practice of law in North Carolina it will not be detrimental to the standing and integrity of the bar, nor the administration of justice, nor adverse to the public's interest.

4. Because it has been more than seven (7) years since

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Goldfarb was disbarred, the committee understands and recommends that any reinstatement would be conditioned upon Goldfarb's attaining a passing grade on a regularly scheduled written bar examination administered by the North Carolina Board of Law Examiners and the Multistate Professional Responsibility Exam to prove competency and learning in the law required to practice law in this state.

5. For purposes of 27 North Carolina Administrative Code Chapter 1, Subchapter B, Section .0125(a)(7), this recommendation shall be a final order unless Goldfarb seeks to bring this recommendation before the Council of the North Carolina State Bar for their consideration.

WHEREFORE, the hearing committee by a unanimous vote recommends that the license to practice law of Carl Goldfarb not be reinstated.

Signed by the undersigned Chairman with the full knowledge and consent of the other members of the hearing committee this the 24th day of October, 1995.


Paul L. Jones, Chairman
Hearing Committee

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